

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CN 69/2013

Appeal from Magistrates Court decision 692/2012

[2014] SCSC

CLIFF MOUSBE

Appellant

versus

THE REPUBLIC

Heard: 14 August 2014

Counsel: Mrs. Karen Domingue Attorney at Law for Appellant

Mr. Kalyaan Karunakaran, State Counsel for the Republic

Delivered: 8 September 2014

JUDGMENT

Burhan J

[1] The Appellant has appealed against conviction and sentence.

[2] The Appellant was charged in the Magistrates' Court as follows;

[3] *Count 1*

Breaking into building and committing a felony therein namely Stealing Contrary to and Punishable under Section 291 (a) of the Penal Code.

The particulars of offence are that Cliff Mousbe residing at Beau Vallon, Mahe, during the night of the 19th day of February, 2012, at the 8 Lounge Restaurant, at Glacis, Mahe, broke and entered the said Restaurant with the intent to commit a felony therein namely stealing.

[4] The Appellant denied the charge and was convicted after trial and sentenced to a term of 10 years imprisonment.

[5] I reproduce below the entire judgment of the learned Magistrate in verbatim;

“The accused is charged with breaking into building and committing a felony therein. The offence being committed on 19th February 2012. I have considered the evidence against the accused and I am satisfied that the prosecution has proved its case beyond reasonable doubt and I accordingly convict the accused as charged.”

[6] The judgment has been produced in verbatim for the reason that the said judgment lacks the very basic element of any judgment “reasoning” as required by section 143 (1) of the Criminal Procedure Code Cap 54. Absolutely no reason or reasons have been adduced by the learned Magistrate to support the finding that the prosecution has proved its case beyond reasonable doubt. The learned Magistrate has not bothered to analyse an iota of the evidence which the learned prosecutor has laboured to lead.

[7] Learned State Counsel is in agreement and does not seek to defend the judgment of the learned Magistrate.

[8] It is the view of this court that the writing of judgments of this nature resulting in the conviction of an accused should be discouraged as an accused has every right to know the reasons for his conviction specially when he is faced with a sentence of 10 years imprisonment. It could result in an accused complaining that he has been denied a right to a fair trial.

[9] For the aforementioned reasons I have no hesitation in quashing the judgment and conviction and ordering a retrial of the Appellant.

[10] The Appellant is to appear in court when noticed.

Signed, dated and delivered at Ile du Port on 8 September 2014

M Burhan
Judge of the Supreme Court